

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER DAVON SCOTT,
Plaintiff,

v.

JAMES KEVIN ALLEN, et al.,
Defendants.

Case No. [24-cv-09174-RS](#) (PR)

ORDER OF DISMISSAL

INTRODUCTION

Plaintiff alleges his attorney James Kevin Allen, and the San Mateo County Private Defenders Office, violated his constitutional rights by mishandling his representation. His 42 U.S.C. § 1983 complaint containing these allegations is now before the Court for review pursuant to 28 U.S.C. § 1915A(a).

This federal civil rights action is DISMISSED because Allen cannot be held liable under section 1983. Whether he is considered a private individual or a public defender, he is not a state actor and therefore cannot be sued under section 1983.

DISCUSSION

A. Standard of Review

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, a court must identify any

cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. *See id.* § 1915A(b)(1), (2). Pro se pleadings must be liberally construed. *See Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988).

A “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal conclusions cast in the form of factual allegations if those conclusions cannot reasonably be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

B. Legal Claims

Plaintiff alleges that Allen’s mishandling of his representation violated his constitutional rights. (Compl., Dkt. No. 1 at 3.) Allen is employed by the San Mateo County Private Defender Office. (*Id.* at 2.) If Allen is acting as a private individual, he is not a state actor and therefore he cannot be sued under section 1983. *See Gomez v. Toledo*, 446 U.S. 635, 640 (1980) (a private individual does not act under color of state law, an essential element of a § 1983 action). If Allen is acting as a public defender, he also is not a state actor. *Polk County v. Dodson*, 454 U.S. 312, 318-19 (1981) (a public defender does not act under color of state law, an essential element of an action under 42 U.S.C. § 1983, when performing a lawyer’s traditional functions). Accordingly, the claims against Allen and the San Mateo County Private Defenders Office, along with this federal civil rights

1 action, are DISMISSED.

2 **CONCLUSION**

3 This federal civil rights action is DISMISSED. The Clerk shall enter judgment in
4 favor of defendants, and close the file.

5 **IT IS SO ORDERED.**

6 **Dated:** April 14, 2025



7 RICHARD SEEBORG
8 Chief United States District Judge
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United States District Court
Northern District of California